

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JUAN ANTONIO CONTRERAS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-09-708-D
)	
JOEL ROGALSKY,)	
)	
Defendant.)	

ORDER

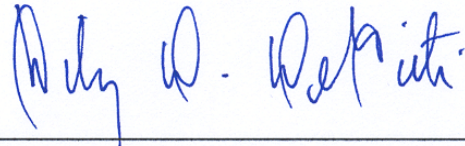
This matter is before the Court for review of the Report and Recommendation [Doc. No. 38] issued by United States Magistrate Judge Bana Roberts pursuant to 28 U.S.C. § 636(b)(1)(B)-(C). Judge Roberts finds that the First Amended Complaint fails to state a claim for relief under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and recommends that it be dismissed but that an amendment be permitted.

Plaintiff has not filed a timely written objection, even though he was specifically advised of the right to object and the waiver rule. *See* Report & Recom. [Doc. No. 38] at 12. Thus, the Court finds that Plaintiff has waived further review of the issues addressed by Judge Roberts and her recommended rulings. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). The Court therefore adopts the Report and Recommendation in its entirety, as though fully set forth herein.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss [Doc. No. 30] is GRANTED. The First Amended Complaint [Doc. No. 10] is dismissed for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6).

IT IS FURTHER ORDERED that Plaintiff may file a seconded amended complaint within 21 days from the date of this Order.¹ Absent a timely filing, this action is subject to dismissal without further notice.

IT IS SO ORDERED this 30th day of March, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ Plaintiff may also voluntarily dismiss his case by filing a notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), as Defendant has neither answered nor filed a motion for summary judgment.